

REMARKS

Applicant has reviewed the Office Action dated April 28, 2003, and the references cited therewith.

Claims 1, 8, 9, and 12 are amended. Claims 1-27 are now pending in this application.

Objections to the Disclosure

In the Office Action, the disclosure was objected to due to various informalities. Applicant has amended the specification to correct inadvertent minor spelling and editorial errors, but no new matter has been added.

§102 Rejection of the Claims

In the Office Action, claims 1 and 3 were rejected under 35 USC § 102(b) as being anticipated by Thompson et al.

Thompson et al. discuss a rake device for removing weeds from a lake. The Thompson et al. device includes a rake mounted to a motor to move the rake backward and forward. The rake has teeth to engage weeds and pull the weeds out of the lake bottom as the rake is powered back out of the lake. (Abstract, Thompson et al.). This is different from the present system which utilizes a suspended weed contacting member to brush against any weeds. The present system does not pull weeds out of the bottom of the lake, instead it slowly disintegrates the weeds by repeatedly brushing over them. Claim 1 has been amended to clarify these differences. For instance, Thompson et al. does not include a weed control system having a weed contacting member suspendable within the body of water proximate a bed of weeds, and “a drive member for automatically moving the weed contacting member in a repeating, circular arc pattern over the bed of weeds such that the weed contacting member repeatedly brushes against any weeds in the bed of weeds,” as recited in claim 1. Again, the Thompson et al. rake is pulled back and forth over the weeds. This requires great force to pull the weeds out. The present system brushes, or lightly passes over, the weeds in a circular arc to cause the weeds (which are mostly composed of water) to disintegrate.

Claim 3 includes each limitation of parent claim 1 and is therefore also allowable over the cited reference. Reconsideration and allowance is respectfully requested.

In the Office Action, claims 1, 2, 4, 8, 10, 12 – 14, 25 and 27 were rejected under 35 USC § 102(b) as being anticipated by Blumenfeld (U.S. Patent No. 2,919,027).

Claims 1, 2, and 4

Blumenfeld discusses a swimming pool cleaning apparatus. There is no discussion in Blumenfeld for how his device could be modified for eliminating weeds from a lake. Blumenfeld's device includes a motor 39 that drives a member 56 over the water. Connected to member 56 is a flexible hose 90 having a nozzle 92 at the end. Water "jetting out of the nozzle causes it to trace a random path over the bottom of the pool." (col. 3, lines 36-38). In operation the Blumenfeld device works by stirring up sediment by a jet of water out of nozzle 92 and filtering the stirred up water. (col. 1, lines 47-49). Even if, *arguendo*, Blumenfeld could be applicable to remove weeds, the reference does not include a weed control system for a body of water having "a drive member for automatically moving the weed contacting member in a repeating, circular arc pattern over the bed of weeds such that the weed contacting member repeatedly brushes against any weeds in the bed of weeds," as recited in claim 1. Again, the Blumenfeld, swimming pool cleaner operates under a random motion of nozzle 92 and hose 90.

Claims 2 and 4 include each limitation of their parent claim and are therefore allowable over the cited reference. Reconsideration and allowance is respectfully requested.

Claims 8 and 10

Applicant traverses the rejection of claim 8 in view of Blumenfeld. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ2d 1897, 1908 (Fed. Cir. 1990). Applicant believes claim 8 is not anticipated by Blumenfeld since the reference does not include each limitation recited in the claim. For instance, a weed control system including "a weed contacting member," and a nozzle which emits water to develop thrust for moving the weed contacting member "in a repeating pattern" through the body of water such that the weed contacting member repeatedly contacts any weeds in a path of the weed contacting member, as recited in claim 8. Again, Blumenfeld

does not disclose a weed contacting member and the Blumenfeld nozzle 92 and hose 90 move in a random pattern through a pool.

Claim 10 includes each limitation of its parent claim and is therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claims 12-14

Claim 12 has been amended to better clarify the subject matter recited in the claim. Applicant believes claim 12 is not anticipated by the cited reference since the reference does not include each limitation recited in the claim. For instance, a weed control system including a support member, a weed contacting member suspended from the support member, and a driver to move the support member across the surface of the body of water in a repeating pattern such that “the weed contacting member also moves in a repeating pattern and repeatedly brushes against any weeds beneath the support member,” as recited in claim 12.

Claims 13 and 14 include each limitation of parent claim 12 and are therefore also not anticipated by the cited reference. Reconsideration and allowance is respectfully requested.

Claim 25

Applicant traverses the rejection of claim 25 in view of Blumenfeld. As noted above, anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon*. Blumenfeld does not disclose or suggest a “method of controlling weeds in a body of water,” the method comprising “repeatedly brushing a bed of weeds with a weed contacting member” which is suspended from a support member located proximate a surface of the body of water, as recited in claim 25. In contrast, Blumenfeld only discusses cleaning sediment in a swimming pool. Reconsideration and allowance is respectfully requested.

Claim 27

Applicant traverses the rejection of claim 27 in view of Blumenfeld. Blumenfeld does not disclose or suggest “a method of controlling weeds in a body of water,” the method comprising: coupling a first end of a support member to a stationary unit proximate the body of

water such that the support member extends over a surface of the body of water; “suspending a weed contacting member” from the support member such that the weed contacting member is located beneath the surface; and moving the support member in a repeating pattern “such that the weed contacting member repeatedly brushes against any weeds located proximate the weed contacting member.” Again, Blumenfeld only discusses cleaning sediment in a swimming pool. Reconsideration and allowance is respectfully requested.

In the Office Action, claims 8, 11, 17 – 20, 25 and 26 were rejected under 35 USC § 102(b) as being anticipated by Majkrzak (U.S. Patent No. 5,359,835).

Claims 8 and 11

Applicant has amended claim 8 to better describe the subject matter recited in the claim. Applicant believes claim 8 is not anticipated by the cited reference since the reference does not include each limitation recited in the claim. For instance, a weed control system including a weed contacting member; and “a nozzle which emits water to develop thrust for moving the weed contacting member in a repeating pattern through the body of water such that the weed contacting member repeatedly contacts any weeds in a path of the weed contacting member,” as recited in claim 8. Majkrzak includes a roller which rotates and thus drives itself across a lake bottom.

Claim 11 includes each limitation of parent claim 8 and therefore is also not anticipated by the cited reference. Moreover, Applicant traverses the assertion that Majkrzak discusses changing the direction of his roller “when a pre-determined time limit has been reached,” as asserted in section 11 of the Office Action. At col. 7, lines 60-63, Majkrzak discusses that his device can be activated by a timer. This is not the same as the claimed “water activated means automatically changes a direction of movement of the weed contacting member when a pre-determined time limit is reached.” Reconsideration and allowance is respectfully requested.

Claims 17-20

Applicant traverses the rejection of claim 17 in view of Majkrzak. Majkrzak does not disclose or suggest a weed control system including “a controller which, in response to a timer,

periodically reverses the direction of the means for moving such that the weed contacting member is repeatedly moved back and forth across the bed of weeds,” as recited in claim 17. As noted above, Majkrzak only discusses that his device can be activated by a timer. Majkrzak discusses a contact switch 182 which reverses the direction of his roller. (Col. 7, lines 5-19). However, if the Majkrzak roller gets stuck it will stay jammed and will not reverse. The present system utilizes a timer. Thus if the weed contacting member of the present system gets stuck, it will reverse and become free once the timer reverses its movement.

Regarding claim 18, Applicant traverses the characterization that Majkrzak’s roller 24 is suspended from housing 18 and brushes against any weeds in a bed of weeds. Roller 24 rolls along the bottom of the lake, removing weeds and stirring up sand and silt. (Col. 25-30). Roller 24 is not suspended from housing 18, but is merely attached to the housing. It does not brush against weeds, it rolls over them. Reconsideration and allowance is respectfully requested.

Claims 25 and 26

Applicant traverses the rejection of claim 25 in view of Majkrzak. As discussed above, Majkrzak discusses a roller 24 attached to a housing 18. Roller 24 includes a plurality of fins. When the roller is rotated, the fins dig into the bed, causing the roller to roll along the bed. (Abstract). Again, this is not the same as the claimed invention which recites: “repeatedly brushing” a bed of weeds with a weed contacting member “which is suspended from a support member located proximate a surface of the body of water.”

Regarding claim 26, as discussed above Majkrzak does not discuss periodically reversing a direction of the weed contacting member “in response to a timer” such that the weed contacting member moves back and forth over the bed of weeds.” Reconsideration and allowance is respectfully requested.

§103 Rejection of the Claims

In the Office Action, claims 4 and 7 were rejected under 35 USC § 103(a) as being unpatentable over Thompson et al. in view of Majkrzak (U.S. Patent No. 5,359,835). Applicant again submits that Majkrzak does not discuss a system “configured to change a direction of movement of the weed contacting member when a pre-determined time limit is reached,” as

recited in claim 4. Regarding claim 7, Applicant traverses the asserted combination of Thompson et al. and Majkrzak regarding the motor-driven wheel subject matter. Thompson describes a rake being pulled back and forth while Majkrzak describes a roller rolling along a lake floor. Each is trying to accomplish the same task in completely different manners. There is no motivation to combine the roller of Majkrzak with the rake of Thompson. Such a combination would be redundant and thus there is no suggestion to combine. Reconsideration and allowance is respectfully requested.

In the Office Action, claim 5 was rejected under 35 USC § 103(a) as being unpatentable over Thompson et al. in view of Henrickson. Even if combined, the combination would not include each limitation of parent claim 1. Moreover, Thompson et al. pulls weeds out of a lake using great force. Applicant does not believe the system of Henrickson could be used to pull weeds out of a lake with the rake of Thompson. Reconsideration and allowance is respectfully requested.

In the Office Action, claim 6 was rejected under 35 USC § 103(a) as being unpatentable over Thompson et al. in view of Beaumont. Even if combined, the combination would not include each limitation of parent claim 1, and the above discussion is incorporated herein. Reconsideration and allowance is respectfully requested.

In the Office Action, claim 9 was rejected under 35 USC § 103(a) as being unpatentable over Majkrzak in view of Henrickson. Applicant traverses. There is no suggestion or motivation to combine the water-pressurized pool skimmer of Henrickson with the roller of Majkrzak. These are two completely different apparatuses. Reconsideration and allowance is respectfully requested.

In the Office Action, claims 11 and 26 were rejected under 35 USC § 103(a) as being unpatentable over Blumenfeld (U.S. Patent No. 2,919,027) in view of Majkrzak (U.S. Patent No. 5,359,835). Applicant again submits that Majkrzak does not discuss a system that reverses in response to a timer. Reconsideration and allowance is respectfully requested.

In the Office Action, claim 15 was rejected under 35 USC § 103(a) as being unpatentable over Blumenfeld (U.S. Patent No. 2,919,027) in view of Beaumont. Applicant submits that there is no suggestion in the art to combine the pool cleaner of Blumenfeld with the dredge of Beaumont. Moreover, even if combined the combination does not include each limitation of parent claim 12. For instance, a driver to move the support member across the surface of the body of water in a repeating pattern “such that the weed contacting member also moves in a repeating pattern and repeatedly brushes against any weeds beneath the support member.” Reconsideration and allowance is respectfully requested.

In the Office Action, claims 21, 22 and 24 were rejected under 35 USC § 103(a) as being unpatentable over Blumenfeld (U.S. Patent No. 2,919,027). Applicant traverses the obviousness rejection. There is no indication in Blumenfeld or the Office Action how the Blumenfeld device would even function with a driver proximate its second end. It is settled law that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); MPEP § 2143.01. Reconsideration and allowance is respectfully requested.

In the Office Action, claims 3 and 23 were rejected under 35 USC § 103(a) as being unpatentable over Blumenfeld (U.S. Patent No. 2,919,027) in view of Peterson (U.S. Patent No. 4,852,337). Claims 3 and 23 include each limitation of their parent claims and are allowable for the reasons discussed above. Reconsideration and allowance is respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-359-3267) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743


Respectfully submitted,

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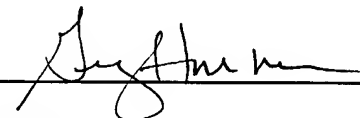
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